

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1092

Introduced by Business and Labor Committee: Cunningham, 40;
Chairperson; Burling, 33; Kremer, 34; Preister, 5

Read first time January 13, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section
2 44-6604, Reissue Revised Statutes of Nebraska, and
3 section 28-631, Revised Statutes Cumulative Supplement,
4 2004; to prohibit certain fraudulent acts with respect
5 to workers' compensation premiums; and to repeal the
6 original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-631, Revised Statutes Cumulative
2 Supplement, 2004, is amended to read:

3 28-631 (1) A person or entity commits a fraudulent
4 insurance act if he or she:

5 (a) Knowingly and with intent to defraud or deceive
6 presents, causes to be presented, or prepares with knowledge or
7 belief that it will be presented to or by an insurer, or any agent
8 of an insurer, any statement as part of, in support of, or in
9 denial of a claim for payment or other benefit from an insurer or
10 pursuant to an insurance policy knowing that the statement contains
11 any false, incomplete, or misleading information concerning any
12 fact or thing material to a claim;

13 (b) Assists, abets, solicits, or conspires with another
14 to prepare or make any statement that is intended to be presented
15 to or by an insurer or person in connection with or in support of
16 any claim for payment or other benefit from an insurer or pursuant
17 to an insurance policy knowing that the statement contains any
18 false, incomplete, or misleading information concerning any fact or
19 thing material to the claim;

20 (c) Makes any false or fraudulent representations as to
21 the death or disability of a policy or certificate holder or a
22 covered person in any statement or certificate for the purpose of
23 fraudulently obtaining money or benefit from an insurer;

24 (d) Knowingly and willfully transacts any contract,
25 agreement, or instrument which violates this section;

1 (e) Receives money for the purpose of purchasing
2 insurance and converts the money to the person's own benefit;

3 (f) Willfully embezzles, abstracts, purloins,
4 misappropriates, or converts money, funds, premiums, credits, or
5 other property of an insurer or person engaged in the business of
6 insurance;

7 (g) Knowingly and with intent to defraud or deceive
8 issues fake or counterfeit insurance policies, certificates of
9 insurance, insurance identification cards, or insurance binders;

10 (h) Knowingly and with intent to defraud or deceive
11 possesses fake or counterfeit insurance policies, certificates of
12 insurance, insurance identification cards, or insurance binders;

13 (i) Knowingly and with intent to defraud or deceive makes
14 any false entry of a material fact in or pertaining to any document
15 or statement filed with or required by the Department of Insurance;

16 ~~or~~

17 (j) Knowingly and with intent to defraud or deceive
18 removes, conceals, alters, diverts, or destroys assets or records
19 of an insurer or person engaged in the business of insurance
20 or attempts to remove, conceal, alter, divert, or destroy assets
21 or records of an insurer or person engaged in the business of
22 insurance; or -

23 (k) Knowingly and with intent to defraud or deceive makes
24 any false statement or representation to an insurer regarding the
25 amount of an employer's payroll, the job classification or number

1 of an employer's employees, or any other standard upon which a
2 workers' compensation premium is calculated.

3 (2) (a) A violation of subdivisions (1) (a) through (f) and
4 (k) of this section is a Class III felony when the amount involved
5 is one thousand five hundred dollars or more.

6 (b) A violation of subdivisions (1) (a) through (f) and
7 (k) of this section is a Class IV felony when the amount involved
8 is five hundred dollars or more but less than one thousand five
9 hundred dollars.

10 (c) A violation of subdivisions (1) (a) through (f) and
11 (k) of this section is a Class I misdemeanor when the amount
12 involved is two hundred dollars or more but less than five hundred
13 dollars.

14 (d) A violation of subdivisions (1) (a) through (f) and
15 (k) of this section is a Class II misdemeanor when the amount
16 involved is less than two hundred dollars.

17 (e) For any second or subsequent conviction under
18 subdivision (2) (c) of this section, the violation is a Class IV
19 felony.

20 (f) A violation of subdivisions (1) (g), (i), and (j) of
21 this section is a Class IV felony.

22 (g) A violation of subdivision (1) (h) of this section is
23 a Class I misdemeanor.

24 (3) Amounts taken pursuant to one scheme or course of
25 conduct from one person, entity, or insurer may be aggregated in

1 the indictment or information in determining the classification of
2 the offense, except that amounts may not be aggregated into more
3 than one offense.

4 (4) In any prosecution under this section, if the amounts
5 are aggregated pursuant to subsection (3) of this section, the
6 amount involved in the offense shall be an essential element of the
7 offense that must be proved beyond a reasonable doubt.

8 (5) A prosecution under this section shall be in lieu of
9 an action under section 44-6607.

10 (6) For purposes of this section:

11 (a) Insurer means any person or entity transacting
12 insurance as defined in section 44-102 with or without a
13 certificate of authority issued by the Director of Insurance.
14 Insurer also means health maintenance organizations, legal
15 service insurance corporations, prepaid limited health service
16 organizations, dental and other similar health service plans, and
17 entities licensed pursuant to the Intergovernmental Risk Management
18 Act and the Comprehensive Health Insurance Pool Act. Insurer
19 also means an employer who is approved by the Nebraska Workers'
20 Compensation Court as a self-insurer; and

21 (b) Statement includes, but is not limited to, any
22 notice, statement, proof of loss, bill of lading, receipt for
23 payment, invoice, account, estimate of property damages, bill for
24 services, diagnosis, prescription, hospital or medical records,
25 X-rays, test result, or other evidence of loss, injury, or expense,

1 whether oral, written, or computer-generated.

2 Sec. 2. Section 44-6604, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 44-6604 For purposes of the Insurance Fraud Act, a person
5 or entity commits a fraudulent insurance act if he or she:

6 (1) Knowingly and with intent to defraud or deceive
7 presents, causes to be presented, or prepares with knowledge or
8 belief that it will be presented to or by an insurer, or any agent
9 of an insurer, any statement as part of, in support of, or in
10 denial of a claim for payment or other benefit from an insurer or
11 pursuant to an insurance policy knowing that the statement contains
12 any false, incomplete, or misleading information concerning any
13 fact or thing material to a claim;

14 (2) Assists, abets, solicits, or conspires with another
15 to prepare or make any statement that is intended to be presented
16 to or by an insurer or person in connection with or in support of
17 any claim for payment or other benefit from an insurer or pursuant
18 to an insurance policy knowing that the statement contains any
19 false, incomplete, or misleading information concerning any fact or
20 thing material to the claim;

21 (3) Makes any false or fraudulent representations as to
22 the death or disability of a policy or certificate holder or a
23 covered person in any statement or certificate for the purpose of
24 fraudulently obtaining money or benefit from an insurer;

25 (4) Knowingly and willfully transacts any contract,

1 agreement, or instrument which violates this section;

2 (5) Receives money for the purpose of purchasing
3 insurance and converts the money to the person's own benefit;

4 (6) Willfully embezzles, abstracts, purloins,
5 misappropriates, or converts money, funds, premiums, credits, or
6 other property of an insurer or person engaged in the business of
7 insurance;

8 (7) Knowingly and with intent to defraud or deceive
9 issues or possesses fake or counterfeit insurance policies,
10 certificates of insurance, insurance identification cards, or
11 insurance binders;

12 (8) Knowingly and with intent to defraud or deceive makes
13 any false entry of a material fact in or pertaining to any document
14 or statement filed with or required by the department; ~~or~~

15 (9) Knowingly and with intent to defraud or deceive
16 removes, conceals, alters, diverts, or destroys assets or records
17 of an insurer or person engaged in the business of insurance
18 or attempts to remove, conceal, alter, divert, or destroy assets
19 or records of an insurer or person engaged in the business of
20 insurance; or -

21 (10) Knowingly and with intent to defraud or deceive
22 makes any false statement or representation to an insurer regarding
23 the amount of an employer's payroll, the job classification or
24 number of an employer's employees, or any other standard upon which
25 a workers' compensation premium is calculated.

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1 Sec. 3. Original section 44-6604, Reissue Revised
2 Statutes of Nebraska, and section 28-631, Revised Statutes
3 Cumulative Supplement, 2004, are repealed.